

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North County Communications Corporation)	
)	
Complainant,)	
)	
vs.)	Docket No. 02-0147
)	
Verizon North Inc. and Verizon South Inc.)	
)	
Respondent.)	

**VERIZON ILLINOIS' RESPONSE IN OPPOSITION TO
NCC'S REQUEST FOR ADMINISTRATIVE NOTICE OF
THE MARYLAND PUBLIC SERVICE COMMISSION'S ORDER IN CASE NO. 8881**

Verizon North Inc. and Verizon South Inc. (collectively "Verizon Illinois") hereby respectfully submit this Response to NCC's Request for Administrative Notice of the Maryland Public Service Commission's ("MD PSC's") Order in Case No. 8881, and in support thereof, state as follows:

The Commission should deny NCC's Request for Administrative Notice of the MD PSC's Order in Case No. 8881. The factual allegations upon which the MD PSC's Order is based pertain solely to non-jurisdictional events that transpired in Maryland. The Commission cannot base any decision on the MD PSC's findings on such non-jurisdictional factual allegations.

Indeed, the parties in the two cases are not even the same because Verizon Maryland Inc. was the respondent in the Maryland proceeding. As Verizon Illinois has explained throughout this proceeding, the physical infrastructures of the former GTE and Bell Atlantic operating companies developed under different management and in different environments, and necessitate

the use of different operating and planning parameters. Verizon Illinois, and the other former GTE operating companies, are not bound by restrictions that may exist in the former Bell Atlantic operating companies' networks. While NCC has filed numerous lawsuits against Verizon operating companies, Verizon Illinois is the only former GTE operating company against whom NCC has filed a law suit based on the type of allegations set forth in this case. Moreover, the facts underlying the Maryland proceeding occurred long before the merger of the former GTE and the former Bell Atlantic parent companies; and, thus, Verizon Illinois and Verizon Maryland Inc. were not even affiliated at the time of the operative facts in the Maryland case.

The Commission is bound, as a matter of law, to consider only Illinois-jurisdictional evidence of fact. Verizon Illinois' request that the Commission take administrative notice of the West Virginia Public Service Commission's ("WV PSC's") Final Order in Case No. 02-0254-T-C does not alter this legal mandate. The WV PSC's Final Order is relevant and should be considered *solely* for its ruling on NCC's allegation of "policy" because NCC submitted, in part, the same evidence in support of its policy claim in West Virginia as it did here. The WV PSC's finding that NCC's evidence was wholly insufficient to establish a policy is relevant to the Commission's consideration of the same claim and, in part, the same evidence in Illinois. The MD PSC's Order, however, cannot be considered for this reason because the MD PSC's Order does not rule on a policy claim.

Finally, Verizon Illinois notes that Verizon Maryland Inc. believes the MD PSC's Order contains numerous errors of law and fact, and intends to seek relief from the Order in the appropriate forums. NCC, on the other hand, has already exhausted its appeal of the WV PSC's Final Order; and the West Virginia Supreme Court of Appeals denied outright NCC's appeal.

(*See*, Verizon Illinois' Request for Administrative Notice of the West Virginia Supreme Court of Appeals' Denial of NCC's Petition for Appeal (filed Jan. 26, 2004)).

Should the Commission, for some reason, nonetheless, grant NCC's Request for Administrative Notice, the Commission should refrain from giving the MD PSC's Order any weight for the reasons set forth herein. Moreover, the Commission should, in that instance, also take Administrative Notice of the Supreme Court of New York's Order Dismissing, for failure to state a cause of action, NCC's Complaint against Verizon New York Inc., a copy of which is attached hereto as Exhibit A.

WHEREFORE, Verizon North Inc. and Verizon South Inc. respectfully request that the Commission deny NCC's Request for Administrative Notice; in the alternative, give the Maryland Public Service Commission's Order in Case No. 8881 no weight; also in the alternative, grant Administrative Notice of the Supreme Court of New York's Order Dismissing NCC's Complaint against Verizon New York Inc., and grant any and all other appropriate relief.

Dated: March 23, 2004

Respectfully submitted,

VERIZON NORTH INC. AND
VERIZON SOUTH INC.

By: _____
One of their attorneys

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CERTIFICATE OF SERVICE

I, Sarah A. Naumer, hereby certify that I served a copy of the Verizon Illinois' Response in Opposition to NCC's Request for Administrative Notice of the Maryland Public Service Commission's Order in Case No. 8881 upon the service list in Docket No. 02-0147 by email on March 23, 2004.

Sarah A. Naumer